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DEPARTMENT OF ENERGY

Office of Fossil Energy

10 CFR Part 515

Transitional Facilities

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: As part of an on-going effort to review and streamline its regulations, the Department of Energy has determined that its regulations governing the classification of transitional facilities under the Powerplant and Industrial Fuel Use Act of 1978, as amended, are outdated and serve no useful purpose. Consequently, these obsolete, unnecessary regulations are removed from the Department's regulations in title 10 of the Code of Federal Regulations.

EFFECTIVE DATE: July 7, 1995.

FOR FURTHER INFORMATION CONTACT: Ellen Russell, Office of Fossil Energy, (202) 586-9624.

SUPPLEMENTARY INFORMATION:

I. Background

Today's action is one step in a Department of Energy effort to review and streamline its regulations. The streamlining effort, described in previously published notices of March 1 and November 14, 1994 (59 FR 9682; 59 FR 56421), was begun in response to Executive Order 12866, "Regulatory Planning and Review," published October 4, 1993 (58 FR 51735). The importance of the Department's initiative was underscored on March 4, 1995, when the President issued a memorandum to the heads of all departments and agencies, calling for increased regulatory review and reinvention efforts under Executive Order 12866. One of the specific activities the President directed

departments and agencies to undertake is the systematic review of agency regulations to determine which regulations have become outdated or are otherwise in need of modification.

In the November 14, 1994, notice of inquiry, the Department of Energy identified 13 regulations or regulatory areas that it had targeted for modification or elimination, and the notice invited public comment on the desirability of modifying or eliminating the targeted regulations. First on the list of 13 regulations or regulatory areas was elimination of 10 CFR part 515. Those regulations were promulgated in 1979 to implement provisions of the Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (42 U.S.C. 8301 et seq.). The Department's notice of inquiry elicited no comments on elimination of 10 CFR part 515.

II. Discussion

The Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95-620 (FUA) was enacted as a means of restraining the use of domestic petroleum and natural gas resources and reducing the Nation's dependence on foreign energy supplies by increasing consumption of coal. Under FUA an electric powerplant or major fuel burning installation (MFBI) was classified as either "new" and subject to the prohibitions of Title II, or "existing" and subject to the prohibitions of Title III. "New" electric powerplants or MFBI were prohibited by FUA from using natural gas or petroleum as a primary energy source unless granted an exemption from the prohibitions. "Existing" units were subject to less stringent prohibitions.

The transitional facility regulations at 10 CFR part 515 applied to the limited number of entities that had generating units not yet operational on April 20, 1977, (the date FUA was initiated) but for which construction or acquisition had begun prior to November 9, 1978, (the date of enactment of FUA). The purpose of these transitional facility regulations was to reduce the likelihood of adversely affecting a facility not operational on April 20, 1977, but for which the construction or acquisition could not be cancelled, rescheduled or modified without causing substantial financial penalty or significant operational detriment.

The classification period for transitional facilities has concluded. During the classification period

applications were received from 112 powerplants and 127 MFBI facilities; 83% of these facilities were classified "existing." There are no additional facilities that could file applications for existing facility status under 10 CFR part 515.

The Department has determined that 10 CFR part 515 serves no useful purpose and, therefore, this final rule repeals and removes those regulations from the Code of Federal Regulations.

III. Procedural Requirements

A. The Need for Public Comment

Removal of 10 CFR part 515 will have no effect on any transitional facility or any other facility within the Department's jurisdiction under FUA. All transitional facilities that were covered by the classification regulations in part 515 have been classified as either "new" or "existing." Under the circumstances, inviting further public comment on this rulemaking action is "unnecessary" and "contrary to the public interest," as those terms are used in 5 U.S.C. 553(a)(3)(B). In addition, no comments were received from the public regarding removal of 10 CFR part 515 when announced during earlier proceedings. Therefore, the Department has determined that good cause exists for not issuing a notice of proposed rulemaking with an invitation for public comment and for making this rule effective upon publication in the **Federal Register**.

B. Review Under Executive Order 12866 and the Paperwork Reduction Act

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735). In addition, this rule does not contain information collection requirements that require approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) Accordingly, today's action was not subject to review by the Office of Information and Regulatory Affairs with the Office of Management and Budget.

C. Review Under the National Environmental Policy Act

The Department has determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental

Policy Act of 1969 (42 U.S.C. 4321 et seq.) and, therefore, neither an environmental assessment nor an environmental impact statement is needed. Pursuant to Department of Energy regulations established for its compliance with the National Environmental Policy Act, the Department has determined that today's regulatory action is a ruling with respect to the rescission of an existing regulation of the type that is categorically excluded from further review under paragraph A4 of appendix A, subpart D, 10 CFR part 1021.

List of Subjects in 10 CFR Part 515

Administrative practice and procedure, Business and industry, Electric power plants, Energy conservation, Natural gas, Petroleum, and Reporting and recordkeeping requirements.

Issued in Washington, D.C., on June 30, 1995.

Patricia Fry Godley,

Assistant Secretary for Fossil Energy.

For the reasons set forth in the preamble, under the authority of 42 U.S.C. 7101, chapter II, subchapter E, title 10 of the Code of Federal Regulations is amended by removing part 515.

[FR Doc. 95-16725 Filed 7-6-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-186-AD; Amendment 39-9296; AD 95-14-04]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain British Aerospace Model BAC 1-11 200 and 400 airplanes, that currently requires incorporation of certain structural modifications. That AD was prompted by reports of fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. The actions specified by that AD are intended to prevent reduced structural integrity of the airplane. This amendment requires incorporation of additional structural modifications.

DATES: Effective August 7, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 7, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 90-23-09, amendment 39-6795 (55 FR 46502, November 5, 1990), which is applicable to certain British Aerospace Model BAC 1-11 200 and 400 airplanes, was published in the **Federal Register** on April 27, 1995 (60 FR 20661). The action proposed to require incorporation of additional structural modifications.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 31 airplanes of U.S. registry will be affected by this AD, that it will take approximately 387 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$10,315 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$1,039,585, or \$33,535 per airplane.

The total cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-6795 (55 FR 46502, November 5, 1990), and by adding a new airworthiness directive (AD), amendment 39-9296, to read as follows:

95-14-04 British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Amendment 39-9296. Docket 94-NM-186-AD. Supersedes AD 90-23-09, Amendment 39-6795.

Applicability: Model BAC 1-11 200 and 400 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the